

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CR No. 20-317 JP

ANTHONY FRAZIER JR.,

Defendant.

**MOTION FOR COMPETENCY EVALUATION  
BY COMMITMENT TO CUSTODY OF ATTORNEY GENERAL**

Undersigned counsel for Defendant Anthony Frazier, pursuant to U.S. Const. Amend. V and 18 U.S.C. § 4241, moves this Court to order that a competency evaluation in this case is to be accomplished by committing Mr. Frazier to the custody of the Attorney General for such evaluation.

In order to find a defendant not competent to proceed in a criminal case, the court must find by a preponderance of the evidence that the defendant is suffering presently from a mental disease or defect which renders him unable to understand the nature and consequences of the proceedings against him and/or properly to assist his attorney in his defense. 18 U.S.C. § 4241(d); *Dusky v. U.S.*, 362 U.S. 402 (1960).

Undersigned counsel raised the issue of Mr. Frazier's competency to proceed in this criminal case by Notice filed on November 13, 2020 [Doc.19].

Counsel raised competency on the basis of the recent finding of not competent in *People v. Frazier*, No. ZM05787 (CA Superior Ct.) (4/21/20); Order Finding Defendant Not Competent in *State v. Frazier*, D-1113-SI-2018 (McKinley Co.) (1/10/19); and two interviews of Mr. Frazier by the undersigned.

For the sake of Mr. Frazier's competence to proceed in this criminal case and pursuant to *Washington v. Harper*, 494 U.S. 210 (1990), Mr. Frazier should be committed to the custody of the Attorney General for placement in a suitable facility for a reasonable period, not exceed 30 days, pursuant to 18 U.S.C. § 4241(b) and 4247(b), (c), for an evaluation of his competency to proceed.

AUSA David Cowen, counsel for the Government, has been consulted and does not oppose this motion.

WHEREFORE, the defense requests that this Court commit Mr. Frazier to the custody of the Attorney General for an evaluation of his competency to proceed in a criminal case.

Respectfully Submitted,

*Electronically filed 11/18/20*

/s/ Jeffrey J. Buckels

Jeffrey J. Buckels

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was electronically submitted and thereby provided to David Cowen, AUSA, on this 18<sup>th</sup> day of November, 2020.

/s/ Jeffrey J. Buckels  
Jeffrey J. Buckels Esq.